

**Fair Political Practices Commission**  
**MEMORANDUM**

**To:** Chairman Johnson, Commissioners Hodson, Huguenin, Leidigh, and Remy

**From:** Brian G. Lau, Commission Counsel  
Scott Hallabrin, General Counsel

**Subject:** Adoption of Proposed Amendments to Regulation 18735

**Date:** February 22, 2008

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Proposed Commission Action and Staff Recommendation: Adopt proposed amendments to Regulation 18735.

Background: Each public agency must adopt a conflict-of-interest code requiring agency officials or employees who make or participate in making governmental decisions to disclose certain economic interests that may foreseeably be materially affected by the decisions. (Sections 87300 and 87302(a).) Generally, an official designated in a code must file:

- (1) An assuming office statement within 30 days of assuming office disclosing investments, business positions, and real property held on, and income received during the 12 months before, the date of assuming office;
- (2) An annual statement disclosing investments, business positions, real property, and income held or received in the prior calendar year or, if assuming office in the calendar year, since assuming office; and
- (3) A leaving office statement within 30 days of leaving office disclosing investments, business positions, real property, or income held or received during the period between the last statement filed and leaving office. (Section 87302(b).)

Interpreting Section 87302(b), Regulation 18735 streamlines reporting when a designated employee transfers to another position within the same agency. Specifically, Regulation 18735 provides that a designated employee transferring to another designated position within the agency, or beginning a new term in the same position within 30 days of a prior term, is not deemed to have left or assumed office. Accordingly, the employee is not required to file a leaving or assuming office statement. The employee must, however, continue filing annual statements as specified. Moreover, a designated employee transferring to a designated position of board member, commissioner, head of agency, executive director, or other chief executive officer within the agency must also amend his or her most recent statement within 10 days of transferring to disclose investments and real property held on the date of the transfer.

Summary of Proposed Amendments: *Designated employee whose disclosure category is amended between the annual filing dates:* Staff proposes amending Regulation 18735 to clarify the reporting requirements for a designated employee when a disclosure category is amended between the annual filing dates for the designated position. As instructed by the Commission during the January prenotice discussion of the proposed amendment, staff has drafted language requiring an employee whose disclosure category is amended midyear to disclose on his or her next required statement of economic interests (1) those interests reportable by the employee's original category held or received prior to the date the code was amended and (2) those interests reportable by the employee's new category held or received after the date the code was amended.

*Amendments to Subdivision (b):* Staff also proposes several amendments to Regulation 18735(b). Substantively, the amendments proposed include (1) language clarifying that the subdivision only applies to a designated employee transferring to a position of board member, commissioner, head of agency, executive director, or other chief executive officer *of the same agency and designated in the agency's conflict-of-interest code* and (2) a requirement that the employee also disclose business positions and sources of income, not previously disclosed, within 10 days of transferring to the specified position. For added clarity, staff is also proposing a non-substantive restructuring of subdivision (b).

*Designated employees of the Legislature:* Finally, staff proposes a new reporting rule for a designated employee of the Legislature who is in a filing category requiring full disclosure, elected to the Legislature, assumes office in December or January, and assumes office within 30 days of leaving his or her designated position. In lieu of requiring both a leaving office statement for the staff position and an assuming office statement as an elected Legislator, staff proposes allowing the Legislator to file a single annual statement disclosing interests held or received during the prior year.

The proposed amendments to Regulation 18735 are shown in the attached copy in bold typeface. The proposed amendments to Regulation 18735 include other technical and non-substantive revisions.

**Attachment:**

**1 – Proposed Amendment to Regulation 18735**

**2 – Government Code Section 87302**